

**Executive Committee for Highway Safety
Ensuring Drivers are Fully Licensed
Working Group Meeting Minutes
February 27, 2006 – Mtg. #9**

Location:

DMV, Conference Room 140, 9:30 a.m.

Committee Members in Attendance:

Tony Spence

Norman. Goering

Max Tate

Cliff Braam

Scribe:

Cliff Braam

Minutes:

- The meeting began at approximately 9:40 a.m.

Open Meeting

This working group has been meeting for over a year and a half and has some of the original members. Over the past several meetings, the member attendance has begun to shrink so there was discussion about whether the group needed new members and if so, who these should be. The group felt that we definitely needed representation from law enforcement at both the local and the state level, DMV, FHWA, Traffic Engineering and the research community; all of which we currently have. The only new representation that was discussed was possibly someone from the court system to provide the perspective of how unlicensed individuals are dealt with in the court system and what could be done to make things easier on the courts.

Cliff will contact Peg Doer to see if we can find a representative from the courts. Cliff will also contact our present local law enforcement representatives to see if they can continue working with us. If they can not, he will try to find new representatives.

Task I - Discussion of “Impoundment of License Plate” Strategy

The group discussed what the next step should be in moving forward with this strategy. The ECHS wants the group to apply this to one segment of the DWLR population, namely those who are without a license because of multiple DWI offenses. The group however, feels that this is a small percentage of the overall DWLR population and that targeting this small subset will not justify the initial cost of implementing the strategy.

Norman will be contacting someone at the AOC to see if we can obtain citation data to determine the extent of the issue. Questions to be asked include:

1. In 2005-Statewide, How many Driving While License Revoked (DWLR) charges were written, in which the DWLR was caused by multiple Driving While Impaired (DWI) charges?
2. In 2004 & 2005- Statewide, How many DWLR charges were written each year, regardless of the cause for the DWLR?
3. In 2004 & 2005: Statewide,- What was the DWLR conviction rate for each year?

Tony will also check with the appropriate individuals to get some preliminary estimates on how much it will cost to implement this strategy. It is envisioned that the cost will be the same whether the target audience is just the repeat DWI offenders, or all DWLR individuals.

The group will next present this information to the ECHS will final recommendations for this strategy.

Max also had contacted Minnesota and obtained some data on their law that is similar to what we are looking at with this strategy. The Minnesota law does only apply to those DWLR who are repeat DWI offenders too. See the attached documentation for more information and a copy of the Minnesota law.

Task II – Review/Status of Approved Strategies

The group next discussed the two strategies that have been approved by the ECHS, but not yet implemented.

More Accurate Identification of Revoked Drivers

Cliff contacted Wayne Hurder regarding the status of this strategy. Essentially this strategy had three parts to it as listed below along with the status of each part.

1. ***Linking tag number to DL number*** -- This has been submitted to DOT IT as a change request to SADLS. This would enable an LEO to enter the plate number and get linked to the DL number (if there is a DL number associated with the plate number) through DCI.
2. ***Linking to national database*** -- This will be very difficult, since the records available nationally are not proof positive that a person's driving privilege is suspended. In addition, there is a question whether the national network at this time is robust enough to handle a large increase in persons accessing the system.
3. ***Wild Card Searches*** -- This would take discussion between DCI and SADLS programmers. Cliff will contact Wayne to see who needs to contact who, to see if the wild card searches can be done within these two systems.

Temporary Vehicle Impoundment

This strategy will require legislation before it can be implemented. Tony will contact Susan Coward, DOT's Legislative Liaison, to see what needs to be done to get the legislation drafted and introduced.

Task III – The Next Strategy

Next the group discussed what needs to be done next in addition to the items already discussed. It was noted that this is a difficult issue at best to try and get under control and that with 69,737 convictions of DWLR in 2005 (this does not account for the actual number of citations issued for DWLR), there is definitely a need for something to be done. However, the potential solutions, are limited. Without incarcerating someone, it is impossible to ensure that just because you legally remove their privileged to drive, it does not mean that you will keep them off of the road. Even the national guide (NCHRP 500) doesn't offer many/any additional feasible options to curtail this problem.

The group was asked to go back to their respective offices and talk with peers, co-workers, etc. to see if additional ideas can be generated.

One additional potential strategy that was mentioned involves vehicle inspection stickers. This was discussed in a previous meeting and the idea is to revise the current vehicle inspection stickers back to the old style with the large numbers indicating when the inspection expired instead of the small hole punched dates presently being used. With the large numbers, law enforcement officers are able to read the expiration date when passing a vehicle, where as with the small hole punched numbers, this is not possible. If an inspection sticker is out of date, then this is enough cause for the officer to make a vehicle stop. These types of stops typically resulted in many other citations/arrests including driving while revoked or suspended. The new inspection stickers have essentially removed a valuable resource/tool from law enforcement offices.

It was noted that this idea, should be drafted into a strategy for submission to the ECHS.

Action Items:

See highlighted items above.

NEXT MEETING: TBD

ALR BASED PLATE IMPOUNDMENT AND RECIDIVISM

Impounding the license plates from repeat DWI offenders after an implied consent license revocation has a significant and powerful effect on reducing DWI recidivism by repeat DWI offenders. Table 2 clearly indicates the effect of plate impoundment on DWI recidivism. It indicates that, just like quick license revocation, quick plate impoundment has the biggest effect on reducing DWI recidivism.

(DWI offenders eligible for plate impoundment 8/88 thru 9/92
88-92 impoundment applied to 3rd time offenders, now applies to 2 time
Offenders and 1st time offenders who have a .20 alcohol concentration or
Greater on an IC test)

• <i>SPEED OF LICENSE PLATE IMPOUNDMENT FOR REPEAT DWI OFFENDERS AND DWI RECIDIVISM</i>			
OFFENDER LEVEL	POLICE ISSUED ORDER (0-10 DAYS)/ 24 MONTH RECIDIVISM	DPS ISSUED ORDER/ (11-30+ DAYS) 24 MONTH RECIDIVISM	NO ORDER ISSUED/ 24 MONTH RECIDIVISM
3 RD TIMERS	13%	19%	26%
4 & ABOVE	17%	18%	26%

Delayed impoundment orders primarily because offender took a blood or urine test

Alan Rogers, *The Effect of Minnesota's License Plate Impoundment Law on Recidivism of Multiple DWI Violators*, 10 J. Alcohol, Drugs & Driving, Num. 2, 127 (1994).

169A.60 Administrative impoundment of plates.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given in this subdivision.

(b) "Family or household member" has the meaning given in section 169A.63, subdivision 1.

(c) "Motor vehicle" means a self-propelled motor vehicle other than a motorboat in operation or an off-road recreational vehicle.

(d) "Plate impoundment violation" includes:

(1) a violation of section 169A.20 (driving while impaired) or 169A.52 (license revocation for test failure or refusal), or a conforming ordinance from this state or a conforming statute or ordinance from another state, that results in the revocation of a person's driver's license or driving privileges, within ten years of a qualified prior impaired driving incident;

(2) a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52 within ten years of a qualified prior impaired driving incident;

(3) a violation of section 169A.20 or 169A.52 while having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense;

(4) a violation of section 169A.20 or 169A.52 while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender; and

(5) a violation of section 171.24 (driving without valid license) by a person whose driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (10) (persons not eligible for driver's license, inimical to public safety).

(e) "Violator" means a person who was driving, operating, or in physical control of the motor vehicle when the plate impoundment violation occurred.

Subd. 2. **Plate impoundment violation; impoundment order.** (a) The commissioner shall issue a registration plate impoundment order when:

(1) a person's driver's license or driving privileges are revoked for a plate impoundment violation; or

(2) a person is arrested for or charged with a plate impoundment violation described in subdivision 1, paragraph (c), clause (5).

(b) The order must require the impoundment of the

registration plates of the motor vehicle involved in the plate impoundment violation and all motor vehicles owned by, registered, or leased in the name of the violator, including motor vehicles registered jointly or leased in the name of the violator and another. The commissioner shall not issue an impoundment order for the registration plates of a rental vehicle, as defined in section 168.041, subdivision 10, or a vehicle registered in another state.

Subd. 3. **Notice of impoundment.** An impoundment order is effective when the commissioner or a peace officer acting on behalf of the commissioner notifies the violator or the registered owner of the motor vehicle of the intent to impound and order of impoundment. The notice must advise the violator of the duties and obligations set forth in subdivision 6 (surrender of plates) and of the right to obtain administrative and judicial review. The notice to the registered owner who is not the violator must include the procedure to obtain new registration plates under subdivision 8. If mailed, the notice and order of impoundment is deemed received three days after mailing to the last known address of the violator or the registered owner.

Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a plate impoundment violation shall also serve a notice of intent to impound and an order of impoundment. On behalf of the commissioner, a peace officer who is arresting a person for or charging a person with a plate impoundment violation described in subdivision 1, paragraph (c), clause (5), shall also serve a notice of intent to impound and an order of impoundment. If the vehicle involved in the plate impoundment violation is accessible to the officer at the time the impoundment order is issued, the officer shall seize the registration plates subject to the impoundment order. The officer shall destroy all plates seized or impounded under this section. The officer shall send to the commissioner copies of the notice of intent to impound and the order of impoundment and a notice that registration plates impounded and seized under this section have been destroyed.

Subd. 5. **Temporary permit.** If the motor vehicle is registered to the violator, the officer shall issue a temporary vehicle permit that is valid for seven days when the officer issues the notices under subdivision 4. If the motor vehicle is registered in the name of another, the officer shall issue a temporary vehicle permit that is valid for 45 days when the notices are issued under subdivision 3. The permit must be in a form determined by the registrar and whenever practicable must be posted on the left side of the inside rear window of the vehicle. A permit is valid only for the vehicle for which it is issued.

Subd. 6. **Surrender of plates.** Within seven days after issuance of the impoundment notice, a person who receives a notice of impoundment and impoundment order shall surrender

all registration plates subject to the impoundment order that were not seized by a peace officer under subdivision 4. Registration plates required to be surrendered under this subdivision must be surrendered to a Minnesota police department, sheriff, or the State Patrol, along with a copy of the impoundment order. A law enforcement agency receiving registration plates under this subdivision shall destroy the plates and notify the commissioner that they have been destroyed. The notification to the commissioner shall also include a copy of the impoundment order.

Subd. 7. **Vehicle not owned by violator.** A violator may file a sworn statement with the commissioner within seven days of the issuance of an impoundment order stating any material information relating to the impoundment order, including that the vehicle has been sold or destroyed, and supplying the date, name, location, and address of the person or entity that purchased or destroyed the vehicle. The commissioner shall rescind the impoundment order if the violator shows that the impoundment order was not properly issued.

Subd. 8. **Reissuance of registration plates.** (a) The commissioner shall rescind the impoundment order of a person subject to an order under this section, other than the violator, if:

(1) the violator had a valid driver's license on the date of the plate impoundment violation and the person files with the commissioner an acceptable sworn statement containing the following information:

(i) that the person is the registered owner of the vehicle from which the plates have been impounded under this section;

(ii) that the person is the current owner and possessor of the vehicle used in the violation;

(iii) the date on which the violator obtained the vehicle from the registered owner;

(iv) the residence addresses of the registered owner and the violator on the date the violator obtained the vehicle from the registered owner;

(v) that the person was not a passenger in the vehicle at the time of the plate impoundment violation; and

(vi) that the person knows that the violator may not drive, operate, or be in physical control of a vehicle without a valid driver's license; or

(2) the violator did not have a valid driver's license on the date of the plate impoundment violation and the person made a report to law enforcement before the violation stating that the vehicle had been taken from the person's possession or was being used without permission.

(b) A person who has failed to make a report as provided in paragraph (a), clause (2), may be issued special registration plates under subdivision 13 for a period of one year from the effective date of the impoundment order. Following this period, the person may apply for regular registration plates.

(c) If the order is rescinded, the owner shall receive new registration plates at no cost, if the plates were seized and destroyed.

Subd. 9. **Administrative review.** (a) At any time during the effective period of an impoundment order, a person may request in writing a review of the impoundment order by the commissioner. On receiving a request, the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. The commissioner shall report in writing the results of the review within 15 days of receiving the request. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69. As a result of this review, the commissioner may authorize the issuance at no cost of new registration plates to the registered owner of the vehicle if the registered owner's license or driving privileges were not revoked as a result of the plate impoundment violation.

(b) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's license revocation under section 169A.53 (administrative and judicial review of license revocation).

Subd. 10. **Petition for judicial review.** (a) Within 30 days following receipt of a notice and order of impoundment under this section, a person may petition the court for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative and judicial review of license revocation).

(b) Except as otherwise provided in this section, the judicial review and hearing are governed by section 169A.53 and must take place at the same time as any judicial review of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The reviewing court may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. The court shall order either that the impoundment be rescinded or sustained, and forward the order to the

commissioner. The court shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (judicial review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

Subd. 11. **Rescission of revocation and dismissal or acquittal; new plates.** If:

(1) the driver's license revocation that is the basis for an impoundment order is rescinded; and

(2) the charges for the plate impoundment violation have been dismissed with prejudice or the violator has been acquitted of the plate impoundment violation;

then the registrar of motor vehicles shall issue new registration plates for the vehicle at no cost, when the registrar receives an application that includes a copy of the order rescinding the driver's license revocation and either the order dismissing the charges or the judgment of acquittal.

Subd. 12. **Charge for reinstatement of plates in certain situations.** When the registrar of motor vehicles reinstates a person's registration plates after impoundment for reasons other than those described in subdivision 11, the registrar shall charge the person \$50 for each vehicle for which the registration plates are being reinstated.

Subd. 13. **Special registration plates.** (a) At any time during the effective period of an impoundment order, a violator or registered owner may apply to the commissioner for new registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. The commissioner may authorize the issuance of special plates if:

(1) the violator has a qualified licensed driver whom the violator must identify;

(2) the violator or registered owner has a limited license issued under section 171.30;

(3) the registered owner is not the violator and the registered owner has a valid or limited driver's license;

(4) a member of the registered owner's household has a valid driver's license; or

(5) the violator has been reissued a valid driver's license.

(b) The commissioner may not issue new registration plates for that vehicle subject to plate impoundment for a period of at least one year from the date of the impoundment order. In addition, if the owner is the violator, new registration plates may not be issued for the vehicle unless the person has been reissued a valid driver's license in accordance with chapter 171.

(c) A violator may not apply for new registration plates for a vehicle at any time before the person's driver's license is reinstated.

(d) The commissioner may issue the special plates on payment of a \$50 fee for each vehicle for which special plates are requested.

(e) Paragraphs (a) to (d) notwithstanding, the commissioner must issue upon request new registration plates for a vehicle for which the registration plates have been impounded if:

(1) the impoundment order is rescinded;

(2) the vehicle is transferred in compliance with subdivision 14; or

(3) the vehicle is transferred to a Minnesota automobile dealer licensed under section 168.27, a financial institution that has submitted a repossession affidavit, or a government agency.

Subd. 14. Sale of vehicle subject to impoundment order.

(a) A registered owner may not sell or transfer a motor vehicle during the time its registration plates have been ordered impounded or during the time its registration plates bear a special series number, unless:

(1) the sale is for a valid consideration;

(2) the transferee and the registered owner are not family or household members;

(3) the transferee signs an acceptable sworn statement with the commissioner attesting that:

(i) the transferee and the violator are not family or household members;

(ii) the transferee understands that the vehicle is subject to an impoundment order; and

(iii) it is a crime under section 169A.37 to file a false statement under this section or to allow the previously registered owner to drive, operate, or be in control of the vehicle during the impoundment period; and

(4) all elements of section 168A.10 (transfer of interest by owner) are satisfied.

(b) If the conditions of paragraph (a) are satisfied, the registrar may transfer the title to the new owner upon proper application and issue new registration plates for the vehicle.

Subd. 15. **Acquiring another vehicle.** If the violator applies to the commissioner for registration plates for any vehicle during the effective period of the plate impoundment, the commissioner shall not issue registration plates unless the violator qualifies for special registration plates under subdivision 13 and unless the plates issued are special plates as described in subdivision 13.

Subd. 16. **Fees credited.** Fees collected from the sale or reinstatement of license plates under this section must be paid into the state treasury and credited one-half to the vehicle services operating account in the special revenue fund specified in section 299A.705 and one-half to the general fund.

Subd. 17. **Plate impoundment; penalty.** Criminal penalties for violating this section are governed by section 169A.37.

Subd. 18. **Stop of vehicles bearing special plates.** The authority of a peace officer to stop a vehicle bearing special plates is governed by section 168.0422